

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION
CASE NO. B-0680213 C-13D

IN RE:)
)
PAMELA ALTHEA SMITH,)
) MOTION FOR RELIEF FROM STAY
Debtor(s))
)
)
)
_____)

Ridgewood Homeowners Association, Inc., a Creditor in the above-referenced case, moves the Court pursuant to Bankruptcy Rules 4001 and 9014 for relief from the automatic stay entered in this matter, and shows the Court:

1. That the Debtor filed a voluntary petition pursuant to Chapter 13 with this Court on February 24, 2006.

2. That the Debtor is a record owner of that tract of real estate briefly described as and located at 106 Saddle Creek Lane, Durham NC 27703; that, upon information and belief, the Debtor occupies said property as his principal residence.

3. That Ridgewood Homeowners Association, Inc. is the holder of a claim on said property, as set forth in the Declaration of Protective Covenants of record at Book 2658, Page 530, and as amended, Durham County Registry, securing Debtor's obligation to pay periodic assessments to the Association.

4. That at the time of the filing of Debtor's petition, the Debtor was past due in her pre-petition obligation and a Proof of Claim was filed on March 12, 2007.

5. That in accordance with the Court Order dated April 26, 2007, the Debtor was supposed to make her payments for post-petition assessments to the Association outside of the Plan and directly to the Association.

6. That Debtor has failed to pay any post-petition assessments and the post-petition assessment account has been in arrears since the petition date.

7. That Debtor is delinquent in her post-petition obligation to the Association in the following amounts as evidenced by the attached statements of account attached hereto as "Exhibit "A," and incorporated herein by reference: principal dues in the amount of \$476.94; late fees in the amount of \$1100.00; filing fees in the amount of \$150.00 and attorneys' fees and costs in the amount of \$809.75; for a total post-petition obligation of \$2536.69.

8. That the Association is not receiving the protection of its interest in said property; furthermore, that the interest of the Association in said property is not adequately protected due to the Debtor's failure to pay.

9. That if the Association is not permitted to foreclose under its Claim of Lien without delay, it will suffer irreparable harm, loss or damage.

WHEREFORE, Ridgewood Homeowners Association, Inc. moves the Court to grant it the following relief:

1. Enter and Order granting Ridgewood Homeowners Association, Inc. immediate relief from the automatic stay in this case pursuant to 11 U.S.C. §362 to permit it to proceed with foreclosure against the Debtor's real property as provided in the Declaration of Protective Covenants of Ridgewood Homeowners Association, Inc. pursuant to the laws of the State of North Carolina.

2. Alternatively, if the Court determines the Stay should remain in effect, enter an Order for the adequate protection of Ridgewood Homeowners Association, Inc.'s security interest and require the rights of Ridgewood Homeowners Association, Inc. be fully protected pursuant to 11 U.S.C. §507(b).

3. For such other and further relief as the Court deems just and appropriate.

This the 1 day of June, 2011.

GUNTER & FLOWERS, PLLC

By:



MARKHAM B. GUNTER
NC State Bar #21011
Attorneys for Creditor
617 W. Jones Street
Raleigh, NC 27603
(919)839-5550 phone
(919)856-9645 fax

CERTIFICATE OF SERVICE

I, the undersigned, of Gunter & Flowers, PLLC, hereby certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on this day, I served a copy of the foregoing Motion for Relief from Stay and Co-Debtor Stay by depositing the same in the United States mail, first class, postage prepaid in an envelope addressed as follows on (unless otherwise stated):

Pamela Althea Smith
106 Saddle Creek Lane
Durham, NC 27703

John T. Orcutt (via CM/ECF)
Attorney at Law
6616-203 Six Forks Rd.
Raleigh, NC 27615

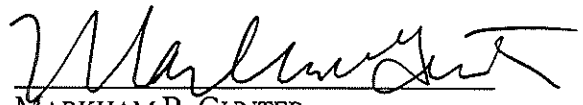
Richard M. Hutson, II (via CM/ECF)
Chapter 13 Trustee
P.O. Box 3613
Durham, NC 27702

I certify under penalty of perjury that the foregoing is true and correct.

Dated: June 1, 2011.

GUNTER & FLOWERS, PLLC

By:



MARKHAM B. GUNTER
NC State Bar #21011
Attorneys for Creditor
617 W. Jones Street
Raleigh, NC 27603
(919)839-5550 phone
(919)856-9645 fax

EXHIBIT A

Ridgewood HOA - Smith, Pamela								
Date	Payment	Dues	Late Fees	Coll Chg	Costs	Atty fees	Total	Balance
							\$0.00	\$0.00
							\$0.00	\$0.00
3/30/2006			\$20.00				\$20.00	\$20.00
4/3/2006						\$93.50	\$93.50	\$113.50
5/1/2006						\$26.25	\$26.25	\$139.75
6/13/2006			\$20.00				\$20.00	\$159.75
8/22/2006			\$40.00				\$40.00	\$199.75
1/2/2007		\$79.86					\$79.86	\$279.61
3/8/2007			\$40.00				\$40.00	\$319.61
4/2/2007						\$50.00	\$50.00	\$369.61
4/13/2007			\$20.00				\$20.00	\$389.61
5/10/2007			\$20.00				\$20.00	\$409.61
6/25/2007			\$20.00				\$20.00	\$429.61
7/20/2007			\$20.00				\$20.00	\$449.61
8/22/2007			\$20.00				\$20.00	\$469.61
9/25/2007			\$20.00				\$20.00	\$489.61
10/22/2007			\$20.00				\$20.00	\$509.61
11/13/2007			\$20.00				\$20.00	\$529.61
12/1/2007			\$20.00				\$20.00	\$549.61
1/1/2008		\$87.85					\$87.85	\$637.46
1/15/2008			\$20.00				\$20.00	\$657.46
2/4/2008			\$20.00				\$20.00	\$677.46
3/3/2008			\$20.00				\$20.00	\$697.46
4/8/2008			\$20.00				\$20.00	\$717.46
5/1/2008			\$20.00				\$20.00	\$737.46
6/10/2008			\$20.00				\$20.00	\$757.46
7/1/2008			\$20.00				\$20.00	\$777.46
8/1/2008			\$20.00				\$20.00	\$797.46
9/4/2008			\$20.00				\$20.00	\$817.46
10/7/2008			\$20.00				\$20.00	\$837.46
11/9/2008			\$20.00				\$20.00	\$857.46
1/1/2009		\$96.63					\$96.63	\$954.09
1/27/2009			\$40.00				\$40.00	\$994.09
2/13/2009			\$20.00				\$20.00	\$1,014.09
3/10/2009			\$20.00				\$20.00	\$1,034.09
4/15/2009			\$20.00				\$20.00	\$1,054.09
5/5/2009						\$15.00	\$15.00	\$1,069.09
5/6/2009			\$20.00				\$20.00	\$1,089.09
6/8/2009						\$20.00	\$20.00	\$1,109.09
6/17/2009			\$20.00				\$20.00	\$1,129.09
7/6/2009			\$20.00				\$20.00	\$1,149.09
8/5/2009			\$20.00				\$20.00	\$1,169.09
9/8/2009			\$20.00				\$20.00	\$1,189.09
10/6/2009			\$20.00				\$20.00	\$1,209.09
11/6/2009			\$20.00				\$20.00	\$1,229.09
12/7/2009			\$20.00				\$20.00	\$1,249.09
1/1/2010		\$106.30					\$106.30	\$1,355.39
1/7/2010			\$20.00				\$20.00	\$1,375.39
2/5/2010			\$20.00				\$20.00	\$1,395.39
3/5/2010			\$20.00				\$20.00	\$1,415.39
3/10/2010						\$40.00	\$40.00	\$1,455.39

5/5/2010			\$20.00				\$20.00	\$1,475.39
6/7/2010			\$20.00				\$20.00	\$1,495.39
7/6/2010			\$20.00				\$20.00	\$1,515.39
8/6/2010			\$20.00				\$20.00	\$1,535.39
8/9/2010						\$40.00	\$40.00	\$1,575.39
9/7/2010			\$20.00				\$20.00	\$1,595.39
10/6/2010			\$20.00				\$20.00	\$1,615.39
11/8/2010			\$20.00				\$20.00	\$1,635.39
12/6/2010			\$20.00				\$20.00	\$1,655.39
1/1/2011		\$106.30					\$106.30	\$1,761.69
1/6/2011			\$20.00				\$20.00	\$1,781.69
2/7/2011			\$20.00				\$20.00	\$1,801.69
3/6/2011			\$20.00				\$20.00	\$1,821.69
4/6/2011			\$20.00				\$20.00	\$1,841.69
5/6/2011			\$20.00				\$20.00	\$1,861.69
Spreadsheet						\$25.00	\$25.00	\$1,886.69
MFRFS						\$500.00	\$500.00	\$2,386.69
Filing fees					\$150.00		\$150.00	\$2,536.69
	\$ -	\$476.94	\$1,100.00	\$ -	\$ 150.00	\$ 809.75		